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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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AZ CORP COMMISSION
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IN THE MATTER OF THE JOINT APPLICATION
OF SUN CITY WATER COMPANY AND SUN
CITY WEST UTILITIES COMPANY FOR
APPROVAL OF CENTRAL ARIZONA PROJECT
WATER UTILIZATION PLAN AND FOR AN
ACCOUNTING ORDER AUTHORIZING A
GROUNDWATER SAVINGS FEE AND
RECOVERY OF DEFERRED CENTRAL
ARIZONA PROJECT EXPENSES.

Docket No. W-01656A-98-0577
SW-02334A-98-0577STAFF'S POST
HEARING BRIEF

In Decision No. 62293, the Arizona Corporation Commission ("Commission") approved the concept of the Groundwater Savings Project ("GSP") as a means for Sun City Water Company and Sun City West Utility Company (collectively, "Companies") to use their Central Arizona Project ("CAP") water allocations. Also in that decision, the Commission required the Companies to file the results of preliminary design/updated cost estimates, addressing A) the feasibility of a joint facility with the Agua Fria Division, B) the need for all major elements of the proposed plan, and C) the progress in obtaining binding commitments from the golf courses. The Companies have subsequently filed a preliminary engineering report, a supplemental engineering report, and binding agreements with all participating golf courses. The Commission ordered a hearing in this matter to determine whether the Companies' various filings comply with Decision No. 62293.

I. The Companies' have complied with the requirements of Decision No. 62293.

In its Preliminary Engineering Report ("PER"), the Companies presented various alternatives for constructing the necessary plant to transport the Companies' entire CAP allocation to the golf courses located in Sun City and Sun City West. Ex. A-2 at 6. Among these alternatives, the Companies considered a joint project with the Agua Fria Division. Id. At 13. The PER also describes in detail the necessary elements of each proposed alternative. The PER concludes that Alternative A is the least cost alternative. Id. at 6. The Commission's Engineering Staff reviewed

1 the PER and concluded that the updated cost estimates reported therein are reasonable. Ex. S-1 at 1-
2 2. Staff concluded that the PER satisfies requirements A and B of Decision No. 62293.

3 At the hearing, the Companies presented copies of water exchange agreements and operating
4 agreements with the various golf courses. See Exs. A-6, A-7, A-8, A-9, A-10, A-11. These filings
5 appear to comply with requirement C of Decision No. 62293. However, Staff notes that there is
6 ongoing litigation regarding the validity of some of these contracts. Staff believes that it would be
7 imprudent for the Companies to begin this project before they know the status of the contracts and the
8 status of the legal challenges to them. Ex. S-2 at 4.

9 **II. The Sun City Taxpayers Association ("SCTA"), which is opposed to the GSP, has not**
10 **established that the Companies have failed to comply with Decision No. 62293.**

11 In light of Decision No. 62293, the scope of this proceeding should be relatively narrow. In
12 other words, this proceeding should focus on whether Citizens' various engineering reports comply
13 with the directives of Decision No. 62293. See Ex. A-2 at 3-4. Instead, the SCTA presents its
14 testimony as if this were a question of first impression. The SCTA argues that the Commission
15 should choose a plan that will maximize the benefit to the aquifer at the least cost to Citizens'
16 ratepayers. See SCTA-1 at 2. But the Commission, in Decision No. 62293, has already weighed
17 various alternatives and decided that the GSP will best serve the public interest.

18 Apparently, the SCTA wants the Commission to reconsider Decision No. 62293. The SCTA
19 presents a number of alternatives that it believes will be less expensive than the GSP, such as
20 recharge, SCTA-1 at 6-7; a combination of delivery of CAP water to Sun City West and recharge,
21 SCTA-1 at 5-6, 8; and an integration of CAP deliveries with the operation of the Companies' sewer
22 treatment plant and underground storage facility, SCTA-1 at 14-17. A number of these alternatives
23 involve eliminating the proposed distribution system to Sun City, thereby eliminating delivery of
24 CAP Water to the Sun City golf courses. Whatever these alternatives might accomplish in terms of
25 reduced cost, they eliminate groundwater delivery to Sun City golf courses, thereby eliminating any
26 incentive for the Sun City golf courses to turn off the pumps.

27 The SCTA argues that the GSP as proposed in the PER does not "maximize benefits to the
28 aquifer underlying the Sun Cities at the least cost to Citizens' ratepayers." Ex. SCTA-1 at 2.

1 However, Decision No. 62293 clearly establishes that cost is not the only consideration. Decision
2 No. 62293 at 16. Further, while criticizing the PER for failing to perform a hydrologic study, the
3 SCTA similarly omits any such evidence. This omission may show a tacit understanding that a
4 hydrologic study will not assist the Commission's analysis: a hydro-geological analysis assesses the
5 movement of groundwater through an aquifer. Ex.. A-2 at 12. Such a study is unnecessary in this
6 case, because the GSP conserves water, rather than replaces it. By enabling the golf courses to use
7 CAP water instead of pumping groundwater, the GSP conserves groundwater that is already present
8 in the aquifer. Id. at 13.

9 **III. Decision No. 62293 endorses the concept of a GSP that will deliver the CAP allocation to**
10 **Sun City and Sun City West.**

11 All parties would probably agree that the Companies bear the burden of supporting the
12 adequacy of the PER. All parties would probably similarly agree that the SCTA bears the burden of
13 supporting any proposed changes to the "concept" approved by the Commission in Decision No.
14 62293. However, the distinction between these two positions is not always clear. The SCTA will
15 argue that Decision No. 62293 requires the PER to address "the need for all major elements of the
16 proposed plans." The SCTA interprets this language to mean that the Companies' PER should
17 evaluate and compare not only methods for delivering all the CAP water to golf courses, but also
18 combinations of delivery and recharge. Ex. SCTA-1 at 2. The Companies, by contrast, will argue
19 that the "concept" approved in Decision No. 62293 is for a GSP that will deliver all of the CAP
20 allocation to the golf courses.

21 An examination of Decision No. 62293 and its underlying record demonstrates that the
22 "concept" referred to is a GSP that will deliver the entire CAP allocation to the golf courses. In the
23 CAP Task Force Report, the Groundwater Savings Project is defined as a means of delivering CAP
24 water to both Sun City and Sun City West through a non-potable pipeline. CAP Task Force Final
25 Report at v. At the hearing which led to Decision No. 62293, the Companies' witness clearly
26 identified the GSP concept as one that will bring CAP water to both Sun City and Sun City West in
27 order to irrigate golf courses. 10-18-99 Hearing Transcript at 174 (Decision No. 62293). Finally,
28 Decision No. 62293 specifically refers to the "GSP concept" as a project that will deliver the CAP

1 allocation to golf courses in Sun City and Sun City West. Accordingly, it was reasonable for the
2 Companies to prepare a PER that addresses the delivery of the entire CAP allocation to Sun City and
3 Sun City West golf courses.

4 While the Companies may bear the burden of proof on the adequacy of the PER, they do not
5 bear the burden of proof as to whether the Commission should reconsider Decision No. 62293, which
6 is essentially the SCTA's case. Accordingly, when the SCTA proposes that the PER should have
7 evaluated alternatives beyond the GSP "concept," it is instead raising elements that the PER was
8 never intended to address. If the SCTA wants the Commission to reconsider the "concept" reached in
9 Decision No. 62293, it certainly has the option to do that. But it must then carry its burden of proof.
10 The SCTA's scant discussion of its various alternatives does not provide a sufficient record for
11 reconsideration. See Ex. SCTA-1 at 5-8, 14-17.

12 **IV. The SCTA's criticisms of the PER are refuted by the record.**

13 The SCTA raises a number of criticisms of the PER; however, each of these criticisms is
14 addressed in the record. Specifically, the SCTA claims

- 15 1. that the golf courses will not have adequate groundwater to exchange,
- 16 2. that the PER is deficient because it does not include a hydrologic study,
- 17
- 18 3. that the PER failed to appropriately analyze the potential for using the Beardsley
Canal in conjunction with the GSP,
- 19 4. that the treatment of right-of-way costs is inconsistent and not fully explained,
- 20 5. that the PER's evaluation of Alternative E is inadequate,
- 21 6. that a SCADA system is not warranted,
- 22 7. that the Supplemental Engineering Report contradicts the PER, and
- 23 8. that the PER does not adequately evaluate the possibility of joint projects.

24 Each of these claims is addressed by the following exhibits:

- 25 1. Ex. A-5 at 3-5
- 26 2. Ex. A-2 at 13-13
- 27 3. Ex. A-2 at 9-10, 14
- 28

4. Ex. A-4 at 4
5. Ex. A-2 at 15
6. Ex. A-2 at 16-18
7. Ex. A-2 at 18-19
8. Ex. A-2 at 19-20

Staff contends that the Commission need not resolve each of these issues in this proceeding. For example, whether this project should include a SCADA system or whether the Companies have selected the right alternative are issues more appropriately considered in a rate case. This proceeding should be limited to examining whether the Companies' PER satisfies the requirements of Decision No. 62293.

V. The Commission should conclude that the PER complies with Decision No. 62293, but should withhold any ratemaking determinations.

The SCTA contends that the PER does not provide "a proper basis on which to authorize Citizens to proceed with the Alternative recommended in the PER." Ex. SCTA-1 at 1-2. This statement of the issue illustrates one of the primary difficulties with this case: it simply misstates the nature of regulation. The Commission does not generally draw conclusions as to the prudence of a project before the fact. The Companies, perhaps understandably, want some assurance that the Commission will view this project favorably when it comes time to consider whether to include this plant in rate base. However, the Commission should not make such commitments before the plant is constructed.

The Companies may argue that the Commission has already approved this project and that it is appropriate for the Commission to continue to repeat such approvals. But there is a difference between approving a concept and micro-managing the specifics of a project in advance. Decision No. 62293 approved the "concept" of the GSP as opposed to other different uses of CAP water, such as recharge or relinquishment of the allocation. Approval of the general concept does not mean that the Commission should, for ratemaking purposes, approve in advance the particulars of the plan design that the Companies might choose. That risk should fall to the Companies, which must then

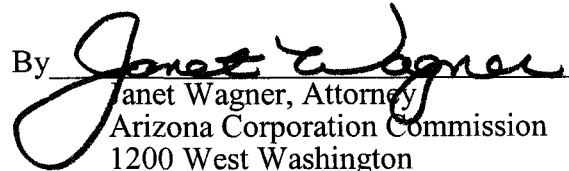
1 justify their choices in subsequent rate cases. This sort of after-the-fact review is typical of the
2 ratemaking process, and the Commission should not vary this procedure here.

3 **VI. Conclusion**

4 The Companies' filings adequately comply with the parameters set forth in Decision No.
5 62293. Although the SCTA proposes to substitute other alternatives for the "concept" addressed in
6 Decision No. 62293, the SCTA has not presented evidence to demonstrate that its various proposals
7 of storage and/or recharge are superior to simply shutting off the pumps. Finally, the Commission
8 should specifically find that consideration of this project for ratemaking purposes will be addressed in
9 the Companies' next rate cases.

10 Dated this 11th day of February, 2002.

11 ARIZONA CORPORATION COMMISSION
12

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